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FISCAL IMPACT STATEMENT

LS 7039

BILL NUMBER: HB 1397

NOTE PREPARED: Feb 11, 2009

BILL AMENDED: Feb 10, 2009

SUBJECT: Buy American Tax Credit.

FIRST AUTHOR: Rep. Niezgodski

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill provides the Buy American Investment Tax Credit for individuals and small businesses who purchase construction equipment, farm tractors, motor vehicles, recreational vehicles, tractors, or truck campers that are certified to have been made in America. It requires the dealer selling the property to make the certification on a form prescribed by the Indiana Economic Development Corporation. It requires the form to be signed under penalty of perjury. The bill also specifies the criteria for determining whether the property may be certified.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The Department of State Revenue will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new tax credit. The Department's current level of resources should be sufficient to implement this change.

(Revised) *Indiana Economic Development Corporation (IEDC):* This bill requires the IEDC to provide a form for dealers to certify their products as being made in America. The IEDC must make these forms available on their web site. These provisions may require additional IEDC staff time, but additional costs are expected to be minimal. As of October 31, 2008, the IEDC had seven vacant positions.

(Revised) *Penalty Provision:* Any dealer providing certificates of eligibility for the Buy American Tax Credit will be subject to the penalty for perjury, a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff,

the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: Summary - This bill will reduce revenue to the General Fund by an indeterminable but potentially significant amount beginning in FY 2011.

(Revised) **Background Information** - This bill provides a tax credit to taxpayers receiving certificates of eligibility for the Buy American Tax Credit and could potentially reduce revenue from the individual and corporate Adjusted Gross Income (AGI) Tax by an indeterminable amount. The certificates of eligibility are obtained by making qualified investments in construction equipment, farm tractors, motor vehicles, recreational vehicles, truck campers, and tractors that are certified as being made in America by dealers. The tax credit is equal to the number of qualified investments made by the taxpayer multiplied by \$1,000. If 50,000 taxpayers make at least one qualified investment and claim \$1,000, then revenue would be reduced by \$50 M. If 100,000 taxpayers make at least one qualified investment and claim \$1,000, then revenue would be reduced by \$100 M.

The tax credit may not be carried forward, carried back, or refunded. The tax credit is effective beginning in tax year 2010, so the fiscal impact could begin in FY 2011. Revenue from the AGI Tax on individuals and corporations is distributed in the state General Fund.

(Revised) **Penalty Provision**: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

(Revised) **Definitions**: This bill defines "qualified taxpayer" as (1) an individual who resides in Indiana and has state tax liability; or (2) a corporation, a partnership, a limited liability company, a limited liability partnership, or other entity that is domiciled in Indiana, is a small business, and has state tax liability.

The bill defines "qualified investment" as the purchase of new construction equipment, new farm tractor, new motor vehicle, new tractor, new recreational vehicle, or a new truck camper that (1) has never been placed into service or used by another person; and (2) is certified by the dealer selling the property to have been made in America.

The bill defines "dealer" as a person who is engaged in the business of buying, selling, leasing, exchanging, and advertising the sale or lease of more than four motor vehicles, pieces of construction equipment, farm tractors, tractors, recreational vehicles, or truck campers within a 12-month period.

Explanation of Local Expenditures: (Revised) **Penalty Provision**: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: (Revised) **Penalty Provision**: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: DOR; IEDC; DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Ryan Asberry, IEDC, 317-232-8962; *State of Indiana HRM Detail Staffing Report*, 10/31/08.

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